

**STATEMENT OF
SUSAN GAFFNEY, INSPECTOR GENERAL
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**BEFORE THE SUBCOMMITTEE ON GOVERNMENT
MANAGEMENT, INFORMATION AND TECHNOLOGY**

CONCERNING THE INSPECTOR GENERAL ACT OF 1978 AS AMENDED

April 21, 1998

Chairman Horn and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the Inspector General (IG) Act of 1978 and current issues in the IG community. It gives me special pleasure to participate in this hearing since my entire Federal career, starting in 1979, has revolved around Office of Inspector General (OIG) operations or issues; and, for the past 5 years, I have had the privilege of serving as the IG at HUD.

I believe the IG Act with its 1988 amendments has been an extremely important and successful piece of legislation. It has provided a road map that can be easily followed: promote economy, efficiency, and effectiveness; and prevent and detect fraud and abuse. Not too long ago, when some issues of disagreement between the Department and my office were being depicted in the press, I was asked by a reporter if I found it difficult to do my job. My response was that an IG's job is really pretty easy--just do the right thing and objectively report what you find. What could be any simpler?

While an IG's primary role has not changed over the past 20 years, the challenges that an Office of Inspector General faces today are quite a bit different from the ones faced in 1978. At HUD, budgets have grown, programs and activities have expanded, and technology has dramatically changed the way business is carried out. At the same time there has been a general downsizing of the workforce, an increased reliance on contractor support, and an expectation that HUD will be run more efficiently. It is especially vital during periods such as these that OIGs provide necessary oversight of programs and operations and assure the efficient expenditure of tax dollars. And, while our resources have increased somewhat, the potential workload is immense. So, what have we done as an organization to meet these new challenges and carry out the daunting responsibilities the Congress has entrusted to us?

I have taken the liberty of attaching our Mission Statement

and Values. One of the HUD OIG values is that "operations are focused on substance rather than process and rely on innovative as well as traditional methods to address issues of significance having potential payback in terms of improved integrity, effectiveness, and efficiency." This core value has been the driving force behind some dramatic changes to the way we carry out our statutory mission. For example, a little over 4 years ago we began an initiative called Operation Safe Home.

Briefly, Operation Safe Home focuses on major types of wrongdoing that undermine HUD programs and ultimately affect the residents of public and assisted housing. The two principal areas of focus are violent crime in public and assisted housing and equity skimming in multifamily insured housing. Operation Safe Home differs from traditional OIG work in that it is highly targeted and proactive; it employs non-traditional techniques; and it represents a long term, sustained commitment to reducing the targeted vulnerabilities. Through the creative and aggressive efforts of our auditors and agents, criminals have been jailed, significant funds have been recovered, and changes have been made to programs that will hopefully eliminate the potential for future wrongdoing.

Of equal importance is the fact that we have seen evidence that these efforts are having a deterrent effect. For example, the equity skimming aspect of Operation Safe Home has become an agenda topic at trade meetings attended by owners of HUD insured multifamily projects. At projects where we have been successful in eliminating the criminal element and initiating post-enforcement measures, residents comment about the improved quality of life.

Despite the huge investment of federal dollars, many public and assisted housing developments have become major breeding grounds for violent crime, with law-abiding residents, many of them elderly, locked in their homes, terrorized by gangs and drug activities. During the last 4 years, Operation Safe Home has pursued its goal of focusing the attention of Federal, state, and local law enforcement on violent crime in public and assisted housing. To successfully accomplish this, our special agents had to become players on law enforcement task forces targeted to public and assisted housing, in addition to carrying out their white collar investigative responsibilities. This entailed a significant commitment to training with respect to firearms, undercover work, special tactics, etc. And, just this past month, I signed a Memorandum of Understanding with the Director of the Drug Enforcement Administration that provides conditions under which HUD OIG agents may be authorized to investigate drug related activities under Title 21--certainly a very

non-traditional role for an OIG.

To compensate for the commitment of 50% of our investigative resources to the violent crime arena, we have retooled the strategies and techniques for aggressive pursuit of equity skimming violations. In the context of Operation Safe Home, equity skimming is the illegal diversion of money out of HUD-insured multifamily projects by private sector owners and/or management agents. The consequences of equity skimming are often extreme: owners cease making mortgage payments, which means that HUD eventually has to pay insurance claims; and projects deteriorate physically, in the process often becoming victimized by the criminal element. In addition to pursuing criminal equity skimming cases, we are now using civil enforcement opportunities and streamlining referrals of civil cases to the U.S. Attorneys for prosecution. Equity skimming civil referrals are now made directly by our auditors--another illustration of how we have had to change to face the new challenges confronting OIGs. What I think is important in both examples above is that the IG Act as written provides the authority and flexibility to try new approaches.

In our quest to bring about positive change in HUD programs and operations, the HUD OIG has also significantly changed its approach to the financial statement auditing required under the CFO Act and to regulatory and legislative activities. We have found the financial statement audit to be an extremely beneficial exercise, much to the surprise of some of our own staff. When the CFOs Act first passed, many in the OIG dreaded the commitment of resources, both dollars and staff, that were going to be required to meet the statutory time frames. Rather than contract out the entire process to public accounting firms, the HUD OIG made a conscious decision in the early 1990s that it would perform the consolidated audit of HUD and contract only for the audits of FHA and GNMA. The rationale for doing so was twofold. First, we wanted to demonstrate to the Department the OIG's commitment to financial management and its willingness to help them get their financial house in order. Second, conducting the consolidated financial audit would provide HUD OIG auditors with an overview of HUD programs and the associated management controls, thus helping us to better focus our audit resources.

The financial statement audit has also proven to be a valuable tool to HUD. In the seven years we have been doing the audit under the CFOs Act, HUD has improved its financial and management controls to move from our disclaiming an opinion to having a qualified opinion.

Rather than just auditing programs/activities/operations

after they have been implemented, over the past couple of years the HUD OIG has placed increasing emphasis on preventing problems through careful review of and comment on proposed regulations and legislation. Because of our institutional memory, which crosses all programs and operations, we are in a somewhat unique position to provide significant recommendations and suggestions to improve controls and minimize risks before programs are implemented. Additionally, for the past two years our office has, based on its audit and investigative work, developed specific legislative proposals for the Congress to consider. I view this as an important role for an IG, since it is sometimes not feasible for a Secretary or agency head to introduce legislation that may be needed, but would not be popular with important constituency groups.

Your invitation letter asks for my thoughts on current issues facing IGs and changes that can be made to strengthen the IG concept. There are several issues that I believe need to be addressed.

One issue that needs to be addressed: over the past 20 years, the question "who watches the IG" has been asked repeatedly. Unfortunately, we still don't have an adequate answer.

- In the mid to late 1980s, the General Accounting Office provided oversight of OIG operations. However, these reviews are no longer routinely performed by the GAO.
- The IG Act Amendments of 1988 required peer reviews for all Federal audit organizations. While these peer reviews have been performed on a 3 year cycle and have been generally beneficial, they are narrowly focused on compliance with audit standards.
- For years, the President's Council on Integrity and Efficiency (PCIE) struggled to find an appropriate mechanism for dealing with allegations of wrongdoing by IGs or their principal staff. To the credit of the PCIE and the Executive Office of the President, this issue was finally resolved by a 1996 Executive Order, which laid out specific procedures for handling such allegations, under the leadership of the Federal Bureau of Investigation.
- The Congress has sporadically held hearings such as this one today to provide general oversight, and there have been specific hearings to deal with particular IG offices.

In my opinion, two things are missing from this picture: a regular, routine means of OIG oversight; and a mechanism for dealing with specific allegations against IGs and OIGs that do not involve wrongdoing. Such allegations could involve failure to comply with professional standards, inefficiency, ineffectiveness, or bad judgments.

A second issue that needs to be addressed: our office confronts a problem in recruiting and hiring recent college graduates. While it is difficult to compete with private industry salaries and benefits to obtain the best and brightest graduating seniors, it becomes even more difficult because there is no flexibility in OPM rules. As the Federal government continues to downsize and OIGs more and more become the primary monitor of agency programs recruiting and hiring a high caliber work force are essential. Again, I don't have a simple answer but your help in looking at the issue would be greatly appreciated.

A third issue that needs to be addressed: over the past year, the HUD Secretary and his key aides have engaged in a number of debates with the HUD OIG. They have asserted that the "general supervision" language in the IG Act means that the Secretary should issue OIG audit reports; the HUD Office of General Counsel, rather than the PCIE Integrity Committee, should investigate allegations of wrongdoing by the HUD IG; IG public relations should be controlled by the HUD Office of Public Affairs; and the Secretary should control work to home use of government vehicles by OIG criminal investigators. They have also asserted that the OIG does not have direct access to all agency records and personnel; and the Secretary is not required to sign the letter transmitting the OIG's semiannual Report to the Congress. They developed plans for an Enforcement Center apart from the OIG that would conduct criminal investigations; and they are allegedly now developing a legislative proposal to give the Enforcement Center subpoena authority. Some of these issues have been resolved; some have not been resolved. But, in my opinion, they all reflect a fundamental lack of understanding or acceptance of the IG concept and the IG Act.

The IG concept is alien to appointees from outside the Federal Government. And, when such appointees grasp the concept, it often makes them uncomfortable. Getting over these hurdles shouldn't be the job solely of the IGs. The Executive Office of the President and the Congress need to make sure that top political appointees, at the outset of their tenure, understand the IG Act and understand that they are expected to support it.

Similarly, to ensure the best qualified IGs, I don't think

we need changes to the IG Act. I do think we need a better process in the Executive Office of the President and more active involvement by the Congress.

A fourth issue that needs to be addressed: because of our Operation Safe Home violent crime work, it is clear to me that the HUD OIG needs statutory law enforcement authority. (We currently have law enforcement authority under a blanket deputation from the U.S. Marshals Service, which deputation is renewable every two years.) I am currently discussing this matter with Administration officials. It would also make sense for the HUD OIG to have asset forfeiture authority, so that we could ensure that proceeds from law enforcement operations in public and assisted housing are put back into public and assisted housing. I have submitted a legislative proposal to this end to the HUD authorizing committees.

That concludes my list of IG-related issues that I believe need to be addressed. You will note that my list does not include some changes that have been proposed, notably changes with respect to OIG reports to the Congress and terms of office for IGs.

Various parties have proposed that the semiannual reporting requirement in the IG Act be changed to an annual reporting requirement; and that the required reporting elements in the IG Act be streamlined. To my understanding, these proposals reflect Congressional frustration with information overload and an inability to figure out from disjointed OIG reporting what is really important. I certainly am in favor of streamlining reporting requirements, but I think the more important issue is the need for OIGs to convey information in a fashion that is useful to the Congress. In this regard, I think an expression of expectations from the IG oversight committees would produce highly beneficial results.

At the same time, I would like to maintain the semiannual reporting requirement. The semiannual reports are an extremely useful mechanism for the HUD OIG to summarize our recent findings for both the Congress and the Agency. The semiannual report alerts the Congress to significant issues, and it also motivates corrective action by the Department. I fear that an annual report would contain so much old information that it would become a reference document, rather than an action-motivating document.

I have two concerns about the proposal that IGs have specified (e.g., 5 year) terms of office. First, I don't believe that any IG should be protected from being fired if he or she isn't doing a good job. As discussed above, the problem is that we haven't yet devised sufficient oversight mechanisms to know

which IGs aren't doing a good job. Further, getting rid of IGs who aren't doing their jobs is going to require the same two elements needed to ensure hiring the best IGs: better mechanisms at the Executive Office of the President and greater Congressional involvement.

My second concern about the term of office proposal is the effect of the lame duck syndrome. If agency management has a reasonable expectation that the IG will not be around in another year or two, it seems to me inevitable that the IG will lose some of his/her clout with the agency.

Mr. Chairman, that concludes my testimony except to say that, no matter what I told that reporter, being an IG is not easy. I very much appreciate the Subcommittee's support and your providing me this opportunity to testify.